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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/669,109	09/23/2003	Dale R. Peterson	BAY01 P-100	3117

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EXAMINER

SELF, SHELLEY M

ART UNIT	PAPER NUMBER
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3725

DATE MAILED: 08/22/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/669,109

Applicant(s)

PETERSON, DALE R.

Examiner

Shelley Self

Art Unit

3725

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 20 June 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-10, 12, 13, 17-19, 21-33 and 35-39 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1, 3, 4, 8-10, 12, 18-22, 24-27, 30, 31, 35 and 38 is/are rejected.
- 7) ☒ Claim(s) 2, 5-7, 13, 17, 23, 28, 29, 32, 33, 36, 37 and 39 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 23 September 2004 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input checked="" type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date <u>2/20/04; 2/23/04</u> | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Election/Restrictions

Applicant's election without traverse of the invention of Group I, Species of Figures 1-14 (clms. 1-10, 12, 13, 17-19, 21-33, 35-39) in the reply filed on June 20, 2005 is acknowledged. Applicant's failure to positively recite any traversal arguments renders the election an election without traverse.

Claims 11, 14-16, 20, 34 and 40-45 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected invention, there being no allowable generic or linking claim. Election was made **without** traverse in the reply filed on June 20, 2005.

Drawings

The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, *the power takeoff* (clms. 2, 36) and *shim plate* (clm. 29) must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement-drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must

Art Unit: 3725

be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the examiner does not accept the changes, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1, 3, 4, 8-10, 12, 18, 19, 25 and 35 are rejected under 35 U.S.C. 102(b) as being anticipated by Paumier (6,435,234). With regard to claim 1, Paumier discloses a stump grinding machine that is configured to mount to a powered vehicle (fig. 1), said stump grinding machine being operable to grind a stump and comprising: a disc mount (22) mounted at a mounting portion of the powered vehicle and pivotable about a generally horizontal axis (fig. 2); and a grinding disc (14) rotatably mounted to said disc mount and rotatable about a disc axis, said grinding disc having a plurality of grinding teeth (48) on a face of said disc (fig. 4), said grinding disc being rotatably drivable by a rotational drive device (38, 51) connected to said grinding disc and to a power source of the powered vehicle (col. 4, lines 5-28), said disc mount being pivotable

Art Unit: 3725

about said generally horizontal axis to arcuately move said grinding disc as said grinding disc is rotatably driven via said rotational drive device to grind a stump.

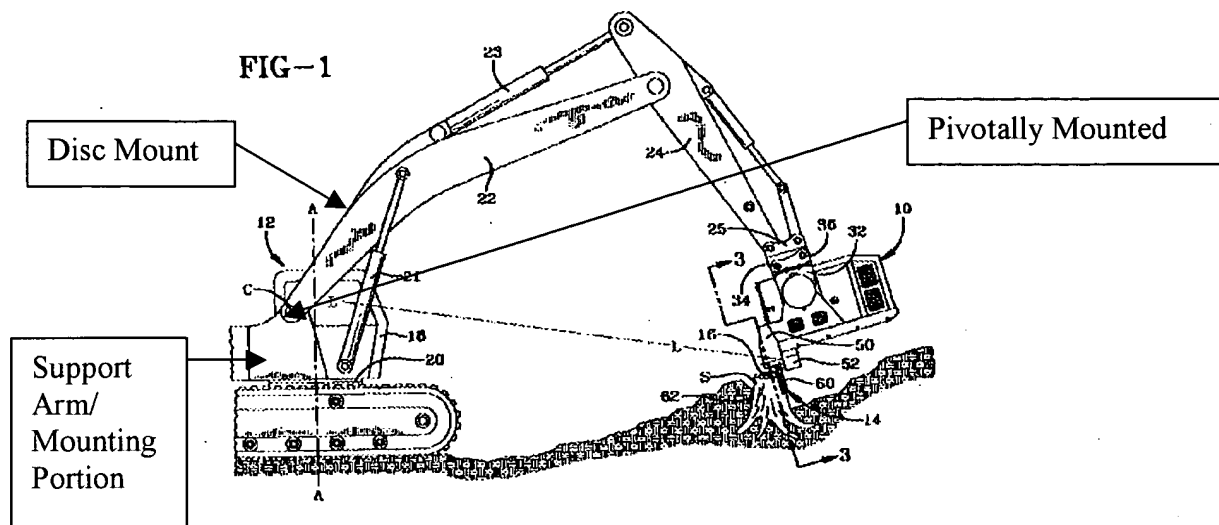
With regard to claim 3, Paumier discloses a mounting frame (fig. 1) configured to connect to the mounting portion of the powered vehicle (fig. 1) and to extend generally horizontally therefrom, said disc mount being pivotally mounted (C) to said mounting frame. Examiner notes that because the mounting portion has a substantial height and width, the portion too has both vertical and horizontal extension and thus *extends generally horizontally*.

With regard to claim 4, Paumier discloses the mounting frame (fig. 1) configures to be cantileverely supported. Examiner understands cantileverely support to be “supported at only one end.”

With regard to claims 8 and 9, Paumier discloses a face of said grind disc (14) comprises a front face that is facing generally toward the powered vehicle (fig. 4) and a rear face that is facing generally away from the powered vehicle (fig. 4) when said stump grinding machine (10) is connected to the powered vehicle (12).

With regard to claim 10, Paumier discloses said stump grinding machine (10) is configured to mount to a powered tractor (fig. 1).

With regard to claim 12, Paumier discloses said disc mount (22) is pivotally mounted to the mounting portion (fig. 1) of a support arm extending from the powered vehicle (12) and defining the mounting portion of the powered vehicle. See fig. 1



With regard to claim 18, Paumier discloses said disc mount (22) biased toward an initial orientation (Examiner notes the cylinders 21, 23 bias the disc mount 22), said disc mount (22) pivoting about a horizontal axis (fig. 2) axis away from said initial orientation in response to said grinding disc (14) being moved into engagement with a stump (S) via movement of the vehicle (12) relative to the stump (col. 3, lines 13-26; col. 4, lines 9-28).

With regard to claim 19, Paumier discloses the disc mount (2) is biased to urge said grinding disc (14) into and at least partially through the stump (S) to grinding the stump (S) after the vehicle is stopped (fig. 1, 4).

With regard to claim 25, Paumier discloses a plurality of teeth (48) spaced radially along said face of said grinding disc (fig. 3).

With regard to claim 35, Paumier discloses a stump grinding machine (10) comprising a mounting frame (fig. 1) configured to connect to the vehicle; a support frame (22) having a first and second ends, said first end being pivotally (C) connected to said mounting frame (fig. 1) and pivotable about a generally vertical pivot axis (fig. 1), said support frame being cantileverely

Art Unit: 3725

supported at said first end and extending generally horizontally from said mounting frame (fig. 1); and a grinding disc (14) rotatably mounted, said grinding disc having a plurality of grinding teeth (48), said grinding disc being rotatably drivable by a rotation drive device (38, 52) connected to said grinding disc and a power source (col. 4, lines 5-28) of the powered vehicle (12), said disc mount being pivotable about said generally horizontal axis to arcuately move (col. 3, lines 5-12) said grinding disc as said grinding disc is driven via said drive device to grind the stump (S).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 21, 22, 24, 26, 27, 30, 31 and 38 are rejected under 35 U.S.C. 103(a) as being unpatentable over Paumier (6,435,234) alone or in view of Bowling (6,021,825). With regard to claims 21, 22, 24, 26, 27, 30 and 38, Paumier discloses said grinding disc includes a plurality of depth guides position on said face of said grinding disc, said depth guides limiting the depth of cut of said grinding teeth as the grinding disc is rotated and engaged with the stump (S).

Examiner notes that the non-cutting (perpendicular edge to the cutting edge) of the teeth (48) act as a depth guide, i.e. the teeth are prohibited from cutting any further into the stump (S) than the overall length of the cutting teeth, thus the length of the cutting teeth act as a guide for cutting depth of the teeth (48).

Moreover, Bowling teaches in a similar art the use of a stump grinding machine (fig. 1) having a rotatable grinding disc (60) wherein both cutting teeth and depth guides (62) are spaced on a face of grinding disc (60). Bowling teaches this construction so as to efficiently grind a stump. Because the references are from a similar art, it would have been obvious at the time of the invention to one having ordinary skill in the art to replace Paumier's cutting teeth (48) with cutting teeth and depth guides as taught by Bowling so as to efficiently grind a stump.

With regard to claim 31, Paumier disclose said disc mount is pivotably about a generally horizontal axis to arcuately move said grinding disc as said grinding disc is rotatably driven via said rotational drive device to grind a stump (fig. 2).

Allowable Subject Matter

Claims 2, 5-7, 13, 17, 23, 28, 29, 32, 33, 36, 37 and 39 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

The following is a statement of reasons for the indication of allowable subject matter: the prior art of record does not disclose or fairly suggest a stump grinding machine comprising the following:

-a telescopic drive shaft connected to said grinding disc and to a power take off of the powered vehicle said telescopic shaft defining a shaft axis that is adjustable relative to said disc axis in combination with the rest of the claimed limitations as set forth in claims 2 and 36.

-a base portion attachable to the vehicle and a support portion mounted to said base portion...said disc mount being pivotally attached to an opposite end of said support portion

Art Unit: 3725

from said base portion in combination with the rest of the claimed limitations as set forth in claims 5 and 32.

-a shroud that houses said grinding disc and *a mounting bracket that is pivotally mounted to the mounting portion of the support arm of the vehicle* in combination with the rest of the claimed limitations as set forth in claim 13

-*depth guide comprising blocks adjustably mounted* in combination with the rest of the claimed limitations as set forth in claims 23, 28 and 39

-*said support frame is pivotable about a generally vertical axis via a first actuator and said disc mount is pivotable about a generally horizontal axis via a second actuator* in combination with the rest of the claimed limitations as set forth in claim 37.

As noted above, the prior art of record, Paumier discloses a stump grinding machine that is attachable to a powered vehicle. Paumier discloses that the stump grinding machine comprises a rotatable grinding disc assembly including discs (44, 46) having teeth (48) on the front periphery face of the grinding disc assembly (fig. 1). Paumier discloses that the stump grinding machine is pivotally mounted to the vehicle via a boom structure (22, 24) at a pivot point (C) so as to pivot about a vertical line to rise and lower the stump grinding machine and to pivot about a horizontal line (fig. 2) so as to position the stump grinding machine about an arc for cutting the stump (S). Paumier further discloses that the grinding disc is driven via a power unit (51), coupler (52), gear reducer (53) and engine (52), such that as the boom structure (22, 24) is lifted via hydraulic cylinders (21, 23) engine (52) is started and stump grinding can commence. Paumier does not disclose a telescopic drive shaft connected to a power takeoff, said telescopic shaft defining a shaft axis that is adjustable relative to said disc axis as set forth in claims 2 and

Art Unit: 3725

36. Further Paumier does not disclose depth guides comprising blocks, a mounting bracket that is pivotally mounted to the mounting portion of the support arm of the vehicle as set forth in claims 13, 22, 23, 27, 28 and 39.

Neither the prior art of record nor any combination thereof discloses the claimed invention as set forth in claims 2, 13, 22, 23, 27, 28, 36 and 39. Accordingly the claims contain allowable subject matter.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Shelley Self whose telephone number is (571) 272-4524. The examiner can normally be reached Mon-Fri from 8:30am to 5:00pm. If attempts to reach the examiner by telephone are unsuccessful, the examiner's Supervisor, Derris Banks can be reached at (571) 272-4419. The fax phone numbers for the organization where this application or proceeding is assigned are (571) 273-8300 for regular and After Final communications.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on accessing the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

SSelf
August 17, 2005



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